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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,898	12/28/2001	Joachim Schmitt	1140668-0005	8066
7470	7590	10/01/2007	EXAMINER	
WHITE & CASE LLP PATENT DEPARTMENT 1155 AVENUE OF THE AMERICAS NEW YORK, NY 10036			DOAN, DUYEN MY	
			ART UNIT	PAPER NUMBER
			2152	
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			10/01/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/019,898

**Applicant(s)**

SCHMITT, JOACHIM

**Examiner**

Duyen M. Doan

**Art Unit**

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/10/2007. Claims 13-32 are amended for examination. Claims 1-12 are cancelled.

### ***Response to Arguments***

Applicant's arguments with respect to claims 13-32 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's submission of Declaration under 37 C.F.R. 1.132, the examiner accepts the affidavit. The automation drive device is hereby treated as a well-known device in the art in according to the applicant's submitted affidavit.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 13-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Independent claims 13, 23, 28 cited, "an automation-drive technology data network", there is not support for this limitations in applicant's specification.

The dependent claims are depended on the rejected base claims, therefore rejected for the same rationale.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 13, 23 recite the limitation "the automation-drive technology data processing apparatus" and "the data processor" respectively. There is insufficient antecedent basis for this limitation in the claim.

The dependent claims are depended on the rejected base claims, therefore rejected for the same rationale.

For the purpose of examination, the above limitations are interpreted as "data processing apparatus".

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-14, 17-24, 26-29, 31-32 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Papadopoulos et al (us pat 6,061,603) (hereinafter Pap).

**As regarding claim 13**, Pap discloses a data processing apparatus running a browser (see Pap figure.1 browser 10, also see col.2, lines 37-44); and an automation-drive device in communication with the data processing apparatus over the data network (see Pap figure.1, process control system interfaces with the browser through

the internet, also see co.2, lines 37-44), the automation-drive device comprising: a memory arranged in the automation device and storing communications data (memory is an inherent feature of the processing control system), the communications data comprising: operating dialogs for the operation of the automation device and for communication with the browser in the data processing apparatus (see Pap col.2, lines 62-67, the configuration; I/O, diagnostics), and device information for service and support of the automation device over the data network (see Pap col.2, lines 62-67, the configuration; I/O, diagnostics); whereby the stored communications data and device information are transmitted from the automation device to the data processing apparatus over the data network by way of a standard protocol (see Pap col.2, lines 62-67, the browser obtain the information regarding the operation of PLC).

The processing control system 6 in figure.1 of Pap transmits the configuration information to the website and in turn the web browser retrieve the information of the processing control system from the web site. The processing control system and the web site in figure.1 of Pap shown as separate elements, however according to MPEP 2144.04, section V "Making Portable, Integral, Separable, Adjustable, or Continuous", it would have been obvious to combine/separate two elements for the purpose of different implementations.

**As regarding claims 14**, Pap discloses the operating dialogs comprise Java objects (see Pap col.10, lines 14-15, applets; col.2, java).

**As regarding claim 17**, Pap discloses the data network comprises an Internet (see Pap figure.1 internet 14).

**As regarding claim 18**, Pap discloses the browser comprises an Internet browser (see Pap figure.1, browser 10).

**As regarding claim 19**, Pap discloses communications data stored in the memory are transferred from the automation-drive device to the data processing apparatus for operating the automation device (see Pap col.4, lines 34-39, the browser functions as an interface to control the PLC from a remote location).

**As regarding claim 20**, Pap discloses the communications data transferred from the automation-drive device to the data processing apparatus are executed in the browser and are displayed by the data processing apparatus (see Pap col.4, lines 34-50, the browser using the configuration of the PLC to remotely configure the PLC).

**As regarding claim 21**, Pap discloses a second data processing apparatus which has a browser and communicates with the automation device in the same manner as the processing apparatus disclosed in claim 13, adopting a concept of singularity to a plurality is a mere replication, which is obvious and not patentable distinct (*In re Harza*, 274 F2d 669, 124 USPQ 378 (CCPA 1960)).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to include a second data processing apparatus to in the system of Kim because by having a second apparatus, would increase processing time, fault recovery in case if the first processing apparatus fail which lead to data reliability.

**As regarding claim 22**, Pap disclosed the second data processing apparatus is in communication with the automation device via the Internet (see Pap figure.1, internet 14).

**As regarding claims 23**, the limitations are similar to claim 13, therefore rejected for the same rationale as claim 13.

**As regarding claim 24**, the limitations are similar to claim 14, therefore rejected for the same rationale as claim 14.

**As regarding claim 26**, the limitations are similar to claim 18, therefore rejected for the same rationale as claim 18.

**As regarding claim 27**, the limitations are similar to claim 20, therefore rejected for the same rationale as claim 20.

**As regarding claim 28**, the limitations are similar to claim 13, therefore rejected for the same rationale as claim 13.

**As regarding claim 29**, the limitations are similar to claim 14, therefore rejected for the same rationale as claim 14.

**As regarding claim 31**, the limitations are similar to claim 17, therefore rejected for the same rationale as claim 17.

**As regarding claims 32**, Pap discloses the at least one data processing apparatus comprises a plurality of apparatuses and the stored communications data and device information are transmitted from the automation-drive device to the plurality of data processing apparatuses over the data network (see Pap, computer 8 having a browser, this computer connects to the monitor 12).



Claims 15,16,25,30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pap as applied to claims 13, 23,28 above further in view of Lee et al (us pat 6,658,167) (hereinafter Lee).

**As regarding claim 15**, Pap discloses all the limitations of claim 13 mentioned above, but fail to disclose the communication data stored in memory comprise data in compressed form.

However, Lee teaches the communication data stored in memory comprise data in compressed form (col.1, lines 56-60).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to combine the teaching of Lee to the system of Pap for the purpose of utilizing storage cost as well as transmission time (see Lee et al, col.1, lines 61-63).

**As regarding claim 16**, the limitation is similar to claim 15, therefore rejected for the same rationale as claim 15.

**As regarding claim 25**, the limitation is similar to claim 15, therefore rejected for the same rationale as claim 15.

**As regarding claim 30**, the limitation is similar to claim 15, therefore rejected for the same rationale as claim 15.

**Examiner's Note:**

Examiner would appreciate if the applicant labels the drawings, instead of just putting numbers. For example, in addition to label number 4 for the box, label it as memory, etc.

Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner. In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duyen M. Doan whose telephone number is (571) 272-4226. The examiner can normally be reached on 9:30am-6:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571) 272-3913. The fax

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phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiner  
Duyen Doan  
Art unit 2152



BUNJOB JAROENCHONWANIT  
SUPERVISORY PATENT EXAMINER

9/26/7